IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4078 OF 2004

IN

CRIMINAL APPEAL NO.1136 OF 2004

...

Shri Sanjay Pandurang Salunkhe ..Applicant

v/s

The State of Maharashtra ..Respondent

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Shri D.C. Mishra for the Applicant.

Shri D.P.Adsule, APP for the State.

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CORAM: V.M.KANADE, J.

DATED: 18TH OCTOBER,2004

P.C.:

1. Heard the learned Counsel appearing on behalf of the Applicant and the learned APP on behalf of the State.

2. The Applicant is convicted under Sections 498-A and 306 of I.P.C. Prosecution case is that the Appellant/Applicant treated his wife with cruelty and as a result of this cruel treatment she poured kerosene and committed suicide. It is an admitted position that the Applicant took her to the hospital in rickshaw. Initially in the first Dying Declaration which was recorded by the Doctor, she has stated that while she was cooking in the kitchen accidently her clothes caught fire as they came in contact with the burning stove and as a result she had sustained the burn injury. In the subsequent Dying Declaration, however, which was recorded by one Kashibai Jadhav who was the member of Women Vigilance Committee, she has stated that her husband used to

suspect her character and as a result she had poured kerosene on herself and her husband had instigated her as to how she would commit suicide. Therefore, she lighted a paper which fell down and due to it she caught fire. The Prosecution has relied on evidence of a child P.W.3 Miss Supriya Salunkhe, who has stated that she has seen the incident.

3. From the perusal of the evidence it appears that the possibility of an accident cannot be ruled out and from the evidence of P.W.3 as recorded in the judgment as also from the dying declaration given to Kashibai Jadhav it appears that the deceased actually wanted to threaten her husband and she had no intention of committing suicide, however, a piece of burning paper fell on her, which had resulted in her death by burning.

4. Under the circumstances, this Applicant is entitled to be released on bail. The Applicant was on bail during trial. The Applicant be released on bail on the same terms and conditions as imposed by the trial court. The Applicant/Appellant to execute the fresh bond.

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